

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

Bail Appl.No. 7347 of 2007()

CRIME NO. 124/07 OF AGALY POLICE STATION

PETITIONER/1ST ACCUSED

K.K.ABDUL SALAM,
RESIDING AT KOLLAMKANDY HOUSE,
KUMMAMKODE AMSOM, NADAPURAM DESOM,
POST NADAPURAM, VATAKARA TALUK,
KOZHIKODE DISTRICT.

BY ADV. SRI.V.V.SURENDRAN

RESPONDENTS: COMPLAINANT AND STATE

1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.
2. STATION HOUSE OFFICER,
AGALY POLICE STATION.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30/11/2007, ALONG WITH BA NO. 7457 OF 2007 THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.Nos. 7347 & 7457 of 2007

Dated this the 30th day of November, 2007

ORDER

Applications for anticipatory bail. The petitioners are accused 1 and 2 in a crime registered alleging commission of the offence punishable under Section 420 I.P.C. The crime has been registered on the basis of a private complaint filed before the learned Magistrate and referred to the police by the learned Magistrate under Section 156(3) Cr.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The first accused has initiated a prosecution under Section 138 of the N.I. Act against the defacto complainant. The allegations raised in the private complaint filed against the petitioners is in fact and virtually the defence pleaded by the defacto complainant in the prosecution under Section 138 of the N.I. Act. Long after the notice of demand was issued and the said complaint under Section 138 of the N.I. Act was filed, the

defacto complainant has chosen to make the present allegations in the private complaint filed by him.

3. I have already adverted to facts in the application for anticipatory bail filed by the third accused, which was disposed of as per order dt. 6.11.2007 in B.A.No. 6727 of 2007.

4. The learned counsel for the petitioners prays, the learned Prosecutor does not oppose the said prayer and I am satisfied that directions under Section 438 Cr.P.C. can be issued in favour of the petitioners.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 7.12.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 8.12.07 and 9.12.2007 and thereafter on all Mondays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 7.12.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 7.12.2007 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 7.12.2007.

(R. BASANT)
Judge

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